

APPEAL NO. 022898
FILED DECEMBER 30, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 17, 2002. The hearing officer resolved the disputed issues by deciding that the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides), was the proper version of the AMA Guides to be used in determining the respondent (claimant's) impairment rating (IR), and that the claimant's IR is 13% as determined by the designated doctor chosen by the Texas Workers' Compensation Commission. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

The claimant essentially contends that Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.1(c)(2) (Rule 130.1(c)(2)) is arbitrary and capricious in determining when the third or the fourth editions of the AMA Guides are to be used to determine an IR. Texas Workers' Compensation Commission Appeal No. 980673, decided May 18, 1998, noted that administrative rules are presumed to be valid, that the burden of proving invalidity is on the party asserting invalidity, and that the courts are the proper forum for deciding the validity of agency rules. We conclude that the hearing officer's determinations on the appealed issues are supported by sufficient evidence and are not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **PHOENIX INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Margaret L. Turner
Appeals Judge